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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,694	11/14/2003	Carter Tyndall	22-0317	2931
40158	7590	04/07/2006	EXAMINER	
WOODS FULLER SHULTZ & SMITH P.C. ATTN: JEFFREY A. PROEHL P.O. BOX 5027 SIOUX FALLS, SD 57117			ALEXANDER, REGINALD	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/713,694	Applicant(s) TYNDALL, CARTER	
	Examiner Reginald L. Alexander	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Koziol.

There is disclosed in Koziol a cooking device comprising: an enclosure 11 having a back wall 22, 23, front wall 18, 19 and side walls 20, 21; a door 12, 13; a pair of apertures 25 in the side walls; a rotating means 50; a shaft member 10; a heating means (inherently taught); a linear actuator (handle) associated with the door and enclosure; and a poultry support assembly 58 associated with the shaft.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5-7, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziol in view of Harrill.

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Harrill discloses that it is known in the art to have a cooking enclosure constructed from a double wall arrangement and insulating material thereinbetween (see figures 1 and 4).

It would have been obvious to one skilled in the art to substitute the enclosure wall arrangement with that disclosed in Harrill, in order to prevent injury to the user.

Harrill discloses a rotating means including: an electric motor having an apparent rotating shaft; a drive member 91 coupled to the rotating shaft; an apparent power switch; a shaft receiving assembly, including: a rotating member 90 engaging the drive member so that rotation of the shaft moves the drive member and then turns the rotating member.

It would have been obvious to one skilled in the art to substitute the rotating means of Koziol with that disclosed in Harrill, in order to provide an alternative means for turning the shaft.

Additionally, Harrill discloses a drip pan 17 and exhaust port 20.

It would have been obvious to one skilled in the art to provide the enclosure of Koziol with the drip pan disclosed in Harrill, in order to collect food drippings and keep the enclosure clean.

It would have been obvious to one skilled in the art to provide the enclosure of Koziol with the exhaust port disclosed in Harrill, in order to remove unwanted gases from the enclosure.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziol in view of Oslin et al.

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Oslin discloses a heating arrangement which includes: a burner assembly 66, 86 within an enclosure; a gas supply line 172, 174; a thermostat; and a pilot 178 and pilot safety control 182.

It would have been obvious to provide the cooking device of Koziol with the heating arrangement disclosed in Oslin, in order to provide a continuous heating of the enclosure and safety to the user.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziol in view of McGuire.

McGuire discloses the use of wheels 26 coupled to a cooking enclosure and a poultry support assembly including: a plurality of spacing members; a plurality of secondary shaft members; and a plurality of fowl engaging members (see figures 9 and 18).

It would have been obvious to one skilled in the art to provide the device of Koziol with the wheels taught in McGuire, in order to allow mobility of the device.

It would have been obvious to one skilled in the art to substitute the poultry support assembly of Koziol with that disclosed in McGuire, in order to allow support of more food items during cooking.

Allowable Subject Matter

Claims 17 and 18 are allowed.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Benson, Erkelenz, Oouchi et al., Eff and Saito are cited for their disclosure of the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
March 20, 2006


Reginald L. Alexander
Primary Examiner
Art Unit 1761